IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION Nos 9014 of 2001,
9015 of 2001 and 9029 of 2001.

For Approval and Signature:

Hon'ble MR.JUSTICE D.H.WAGHELA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

RUDRABEN RAJENDRAKUMAR SARAIYA,
GHANSHYAMBHAI P. MANDNANI
& PRAVEENABEN MAHENDRAKUMAR SHAH

Versus

INDUSTRIAL JEWELS PRIVATE LTD.

Appearance:
MR MAULIK J SHELAT for Petitioners.
MR KM PATEL for Respondent

CORAM : MR.JUSTICE D.H.WAGHELA

Date of decision: 20/03/2002

ORAL JUDGEMENT

Rule. Learned Counsel Mr. Maulik J. Shelat appeared for all the three petitioners in the petition. Mr. K.M. Patel, learned Counsel appeared for the respondent company in all these petitions. By their joint request, these petitions are heard together and in view of the same legal issues involved, they are being disposed of by this common judgement.

2. All the three petitions in fact seek to challenge the awards and orders of the Labour Court, Bhavnagar in Reference cases of the respective respondents, whereby the respondent workmen are ordered to be reinstated without backwages. It is a common ground that pursuant to the impugned award, the respondents are already reinstated and in view of the filing of the petitions, the respondent has requested to reserve their right to also challenge the same award.

3. In each of the cases, the respondent workmen has been dismissed after holding of Departmental enquiry, wherein the respondent was found to be guilty and the orders of dismissal were issued on that basis. In the course of proceedings before the Labour Court, the enquiry reports were produced and examined in detail. After appreciation of the material on record, the Labour Court in each case has found some discrepancy in the findings of the enquiry and at the same time has also held that the respondent was guilty of one or the other less serious misconduct. It appears that in these circumstances, the Labour Court, in exercise of its powers under Section 11A of the Industrial Disputes Act, 1947, modified the order of punishment, reducing it to the order of reinstatement without backwages in each case. Thus, the backwages are denied as a lesser punishment in exercise of the powers conferred upon the Labour Court.

4. Even after perusal of the relevant and important findings and conclusions of the Labour Court, as recorded in the impugned awards, it could not be pointed out as to how the exercise of discretion by the Labour Court was not proper. In other words, no ground is made out to interfere with the impugned award and order, which are clearly within judicious exercise of powers by the Labour Court and no reason is made out to interfere with the same in exercise of the extra-ordinary jurisdiction of this Court.

5. In the facts and for the reasons discussed hereinabove, all the three petitions are dismissed. Rule is discharged with no order as to costs.

(D.H.Waghela, J.)

*/Mohandas